

United States Court of Appeals

Eleventh Circuit

56 Forsyth Street, N.W.
Atlanta, Georgia 30303

Thomas K. Kahn
Clerk

In Replying Give Number
Of Case and Names of Parties

October 3, 2003

VIA FACSIMILE

TO ALL COUNSEL OF RECORD

Re: 01-14680 - United States v. Richard Junior Frazier

Dear Counsel:

For the purposes of the upcoming en banc rehearing in the above-referenced case, the court desires for counsel to focus their briefs on the following issues:

1. **Did the district court abuse its discretion, i.e., commit “manifest[] erro[r],” *General Elec. Co. v. Joiner*, 522 U.S. 136, 142, 118 S.Ct. 512, 517, 139 L.Ed.2d 508 (1997) (quoting *Congress & Empire Spring Co. v. Edgar*, 99 U.S. 645, 658, 25 L.Ed. 487 (1878)), in excluding portions of the expert testimony proffered by Robert Tressel?;**
2. **Did the court abuse its discretion by allowing the opinions of the government’s expert witnesses on a material issue, while excluding the defense’s expert witness on that putatively same issue? [*United States v. Gaskill*, 985 F.2d 1056, 1063 (11th Cir. 1993)];**
3. **Did the evidentiary rulings as to the expert testimony proffered by Robert Tressel deny the defendant “a meaningful opportunity to present a complete defense.” [*California v. Trombetta*, 467 U.S. 479, 485, 164 S. Ct. 2528, 2532 (1984)]; and,**
4. **If the district court did abuse its discretion in excluding portions of Tressel’s opinion testimony, did this constitute harmless error?**

Appellant’s opening brief shall be filed in the Clerk’s Office in Atlanta by 5:00 p.m., Wednesday, November 12, 2003. Appellee’s opening brief shall be filed in the Clerk’s Office in Atlanta by 5:00 p.m., Friday, December 12, 2003. Any reply brief by the Appellants must be filed in the Clerk’s Office in Atlanta by 5:00 p.m., Monday December 29, 2003. NO EXTENSIONS WILL BE GRANTED. An original and 18 copies of the en banc briefs should be filed (appellant’s in blue covers, appellees’ in red covers and any reply in gray covers). NO EXTENSIONS WILL BE GRANTED. The parties are expected to insure that all other parties receive a copy of their briefs before the close of business on the day of filing (facsimile, e-mail, etc.). NO TIME FOR MAILING SHALL BE ALLOWED. All parties are also required to upload the brief in electronic format to the court’s Web site as described in 11th Cir. R. 31-5.

All counsel are requested to file 16 copies of their opening panel briefs, record excerpts and supplemental authorities prior to 5:00, Wednesday, November 12, 2003.

The case will be argued before the Court sitting en banc on Tuesday, February 10, 2004, in Atlanta, Georgia. Counsel will be allotted twenty minutes per side for oral argument. Counsel will receive a calendar notifying of the time of oral arguments at a later date.

Thank you for your attention to this matter.

Sincerely,

THOMAS K. KAHN, Clerk

By:

Calendar Clerk
404.335.6131